

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

CHARLES W. MILLER,

Plaintiff,

v.

**ROBERT BUCKHOLTZ, WILLIAM
COOLEY, MARGARET KALLUNKI,
DEPRA POTTER, and DOES 1–3 in
their personal and official capacities,**

Defendants.

MOSMAN, J.,

No. 3:10-cv-00376-HU

OPINION AND ORDER

Judge Hubel recommended [93] that Defendants’ Motion To Dismiss [62] Plaintiff Charles Miller’s Second Amended Complaint [52] be granted, and that the complaint be dismissed without prejudice except as against the late William Cooley. Neither party filed objections.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. I am not bound by the recommendations of the magistrate judge; instead, I retain responsibility for making the final determination. I am required to review de novo those portions of the report or any specified findings or recommendations within it to which an

objection is made. 28 U.S.C. § 636(b)(1). However, I am not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether objections have been filed, in either case I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1).

Upon review, I agree with Judge Hubel's recommendation, and I ADOPT the F&R [93] as my own opinion.

IT IS SO ORDERED.

DATED this 16th day of June, 2014.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge